

Docket No.: 03-0657
Bench Date: 09-22-04
Deadline: 11-04-04 (see below)

MEMORANDUM

TO: The Commission

FROM: Larry Jones, Administrative Law Judge

DATE: September 8, 2004

SUBJECT: Central Illinois Public Service Company ("AmerenCIPS") and Union Electric Company ("AmerenUE")

Petition for Approval of Transfer of Gas System Assets and Gas Public Utility Business and for Approval of Entry into Various Agreements Related Thereto.

STATUS: A proposed order was issued and a copy was provided to Commissioners at that time. Briefs on exceptions ("BOEs") and reply briefs on exceptions ("RBOEs") have been filed. Under a memorandum dated July 22, 2004, this matter was before the Commission for discussion at its bench session on August 4, 2004. A related proceeding before the Missouri Public Service Commission is still pending.

RECOMMENDATION: Entry of the attached Order Granting Petition. (The order would approve the proposed transactions, subject to certain conditions.)

Proposed Transaction

AmerenUE and AmerenCIPS ("Applicants") are both first tier subsidiaries of Ameren Corporation ("Ameren"). In this proceeding, Applicants seek approval, pursuant to various sections of Articles VI, VII and IX the Public Utilities Act ("Act"), 220 ILCS 5/1-101 et seq., to transfer AmerenUE's retail gas operations and related assets in Illinois to AmerenCIPS, pursuant to an "Asset Transfer Agreement." The Companies also seek several other approvals relating thereto, including the issuance of a promissory note by AmerenCIPS.

The structure of and financing for the proposed transaction, and AmerenCIPS' capital structure per books and pro forma, are described on pages 4 and 5 of the order.

The transfer of the AmerenUE gas system is part of Ameren's overall plan to transfer almost all of AmerenUE's Illinois gas and electric assets and operations to AmerenCIPS.

The Commission Staff recommends approval of the transactions proposed in the instant case, provided that a number of conditions are imposed. There are no intervenors in this proceeding.

Subject to various conditions, the order would grant authorization for (1) the transfer of AmerenUE's retail gas operations and related assets in Illinois to AmerenCIPS pursuant to the terms of the Asset Transfer Agreement; (2) the issuance by AmerenCIPS of a promissory note to AmerenUE, in an amount not to exceed \$69 million; and (3) such other related transactions as are found appropriate for approval in the order.

On page 19, the order also finds that in future rate proceedings, all savings from the proposed transaction will be allocated entirely to the ratepayers of AmerenCIPS, and that AmerenCIPS will not be allowed to recover any costs incurred in accomplishing the proposed transaction.

As proposed by Staff and Applicants, the order also contains findings on page 17 intended to ensure that the proposed transaction will not enable AmerenCIPS to request an increase in electric base rates, pursuant to Section 16-111(d) of the Act, which AmerenCIPS could not have requested absent the reorganization.

Missouri PSC Proceeding; Exceptions and Replies; Deadline

Certain points of disagreement emerged in the BOEs and RBOEs that appear to be largely attributable to delays and uncertainties in a related proceeding that is still pending before the Missouri Public Service Commission ("PSC"), and past outcomes there in similar cases involving the same parties. These issues are discussed in Section IX of the order, which is a new section contained on pages 22-24. Other than the heading, the new section is not shown in revision format so that it will be more reader-friendly. Other revisions in the order, including citations to BOEs and RBOEs, are shown in revision format.

One of the issues addressed in Section IX of the order is a condition in the proposed order that the transactions in question are to be consummated not later than December 31, 2004. The Applicants take exception to this condition, while Staff supports it. The attached order would extend the time for completing the transaction to a date six months from the date of the order.

The other issue addressed in Section IX is whether the Commission would be approving the Asset Transfer Agreement filed by Applicants, or the "form of" such an

agreement. Subject to certain conditions and clarifications, the order would approve the Asset Transfer Agreement, not the “form of” such an agreement.

With regard to the deadline for action in the instant docket, part of the relief sought is for approval under Section 7-204 of the Act, which defines a “reorganization” and sets out requirements to be met for Commission approval thereof. This relief was sought in an Amended Petition filed December 4, 2003. Hence, it appears the 11-month deadline for action would be November 4, 2004. As noted above, the related proceeding before the Missouri PSC is still pending.

LMJ/lw